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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,067	01/24/2001	Terry R. Weissman	TLME-01-020	7198
45588	7590	01/27/2006		
WAGNER, MURABITO & HAO, LLP TWO NORTH MARKET STREET THIRD FLOOR SAN JOSE, CA 95113			EXAMINER PHAN, JOSEPH T	
			ART UNIT 2645	PAPER NUMBER

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/770,067

Applicant(s)

WEISSMAN, TERRY R.

Examiner

Joseph T. Phan

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2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

**Claim Rejections - 35 USC § 112**

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, line 2-3 recites the phrase "playing recorded audio segments in the queue". The phrase "the queue" lacks antecedent basis. It is not known and unclear what "the queue" is referring to or what it comprises(*e.g. was the queue generating before transmitting over a telephone interface or during the use of the computer system session*). Appropriate clarification or correction is required.

**Claim Rejections - 35 USC § 102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-18 rejected under 35 U.S.C. 102(b) as being anticipated by Logan et al., Patent #5,721,827.**

Regarding claim 1, Logan teaches a method of serializing an asynchronous communication over a plurality of telephone interfaces using a computer system, wherein the method comprises(col.6 lines 10-18):

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playing recorded audio segments in the queue in a predetermined order using the computer system, maintaining a current position in the queue responsive to the playing using the computer system(235 Fig.3 and col.11 lines 3-25), supporting receipt of a request to record an audio segment for inclusion in the asynchronous communication using the computer system, and responsive to the request recording the audio segment, adding the audio segment to the queue, and resuming the playing at the current position(235, 267, and 285 Fig.3 and col.12 lines 16-54).

Regarding claim 2, Logan teaches the method of claim 1, wherein the playing comprises selecting a place in the queue as the current position and beginning playback of the corresponding recorded audio segment and automatically advancing to next recorded audio segment in the queue when one is available (col.11 lines 3-col.12 line 67 and col.14 lines 42-52).

Regarding claim 3, Logan teaches the method of claim 1, wherein the playing comprises playing holding sounds when the current position corresponding to end of the queue and automatically resuming playback when additional recorded audio segments added to the queue (col.10 line 51-col.12 line 67).

Regarding claim 4, Logan teaches the method of claim 1, wherein the playing comprises receiving requests to alter the playback, the requests corresponding to one or more of change the current position to previous audio segment in the queue, change the current position to next audio segment in the queue, skip ahead in audio segment,

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skip back in audio segment, and speed up playback of audio segment, slow down playback of audio segment (col.11 lines 3-col.12 line 67).

Regarding claim 5, Logan teaches the method of claim 4, wherein the requests comprise one or more of spoken audio commands and dual-tone multi-frequency (DTMF) signals (col.11 lines 3-col.12 line 67).

Regarding claim 6, Logan teaches the method of claim 1, wherein the recording the audio segment can be selectively deactivated such that after deactivation the asynchronous communication can be played back, but additional recorded audio segments cannot be added to the queue (col.11 lines 3-col.12 line 67).

Regarding claim 7, Logan teaches the method of claim 1, wherein the plurality of telephone interfaces coupled in communication with between one and five thousand human participants (Fig.1 Fig.4, and col.18 lines 10-46).

Regarding claim 8, Logan teaches the method of claim 1, wherein the recorded audio segments corresponds to a communication amongst one or more participants concerning an equity issue (col.8 lines 64-col.9 line 57 and col.18 lines 36-67).

Regarding claim 9, Logan teaches the method of claim 1, wherein the recorded audio segments corresponds to a communication amongst one or more participants concerning traffic(col.18 lines 36-67 and col.28 lines 59-67).

Regarding claim 10, Logan teaches the method of claim 1, wherein the predetermined order for playback is chronological order(col.13 line 55-col.14 line 41 and col.28 lines 54-58).

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Regarding claim 11, Logan teaches the method of claim 1, wherein the predetermined order for playback is reverse chronological order(col.13 line 55-col.14 line 41 and col.28 lines 16-58).

Regarding claim 12, Logan teaches the method of claim 1, wherein a playback flag is associated with one or more of the recorded audio segments in the queue and wherein the playing in the predetermined order comprises only playing those recorded audio segments with an associated playback flag(col.12 line 16-col.14 line 52).

Regarding claim 13, Logan teaches the method of claim 1, further comprising the computer system removing one or more recorded audio segments from the queue according to one or more criteria(217 Fig.2 and col.41 lines 8-23)

Regarding claim 14, Logan teaches the method of claim 13, wherein the one or more criteria include a predetermined amount of time such that recorded audio segments recorded more than the predetermined amount of time earlier are removed(217 Fig.2 and col.41 lines 8-43).

Regarding claim 15, Logan teaches the method of claim 13, wherein the one or more criteria include a predetermined amount of playback time such that if the playback time of the queue exceeds the predetermined amount of time earlier recorded messages are removed to shorten the playback time to the predetermined amount(217 Fig.2, col.41 lines 8-43, and col.37 lines 7-14).

Regarding claim 16, Logan teaches the apparatus for serializing an asynchronous communication, the apparatus comprising:  
means for storing a plurality of recorded audio segments;

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telephone interface means; and for each of the plurality telephone interfaces means for playing recorded audio segments in a predetermined order (Fig.1, col.6 lines 10-26 and col.10 lines 6-67);

means for maintaining a current position in the queue responsive to the playing using the computer system(Fig.1, label 235 Fig.3 and col.11 lines 3-25),

means for supporting receipt of a request to record an audio segment for inclusion in the asynchronous communication using the computer system, and

means for responsive to the request recording the audio segment, adding the audio segment to the queue, and resuming the playing at the current position(Fig.1, labels 235, 267, and 285 of Fig.3 and col.12 lines 16-54).

Regarding claim 17, Logan teaches the apparatus of claim 16, wherein the means for playing recorded audio segments comprises means for playing both recorded audio segments and streaming audio segments, the streaming audio segments corresponding to audio still being recorded (col.31 lines 51-67 and col.12 lines 24-67).

Regarding claim 18, Logan teaches the apparatus of claim 16, wherein the apparatus used to provide a phone chat service (col.9 lines 1-60).

### ***Response to Arguments***

3. Applicant's arguments filed 05/16/05 have been fully considered but they are not persuasive.

Applicant argues that Logan does not teach a telephone interface. Examiner respectfully disagrees as Logan does disclose the communication link 117 of Fig.1 as being a telephone interface(see col.4 lines 3-11 and col.6 lines 10-18).

This limitation merely recites a *telephone interface* and not “a *telephone connected to a telephone interface*” as it appears applicant is arguing.

Therefore an interface that has telephone functionality as disclosed in the above line references can read on the recited “*telephone interface*”.

Furthermore, in applicants' arguments page 9 filed 05/16/05, *applicant admits to “understanding that communication link 117 may be implemented in many ways, including dial-up telephone facilities, cellular radio, and satellite links”* which can all be “telephone interfaces”.

It is clearly shown that Logan uses the term “telephone” in the above citations.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T. Phan whose telephone number is (571) 272-7544. The examiner can normally be reached on Mon-Fri 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTP  
August 11, 2005



**CREIGHTON SMITH**  
**PRIMARY EXAMINER**